

JOSEPH GAZIN v. ADOLPH MEYER.

JUNE 6, 1898.—Ordered to be printed.

Mr. OLMSTED, from the Committee on Elections No. 2, submitted the following

REPORT.

[To accompany House Res. No. 312.]

The contested-election case of Joseph Gazin v. Adolph Meyer, from the First Congressional district of Louisiana, having been referred to the Committee on Elections No. 2, the said committee, having carefully considered the printed record in the case and the oral arguments and printed briefs of counsel, respectfully submit the following report:

The First Congressional district of Louisiana comprises the Third, Fourth, Fifth, Seventh, Ninth, and Fifteenth wards of the parish of Orleans, embracing the city of New Orleans and the counties or parishes of St. Bernard and Plaquemines.

The election law of the State of Louisiana, under which the Congressional election in 1896 was held, is patterned after what is known as the Australian system. Upon the official ballot used on that occasion there appeared the names of four Congressional candidates, viz:

Joseph Gazin, People's Party.

A. E. Livaudais, Republican.

Adolph Meyer, Democrat.

Armand G. Romain, Independent Republican.

From the returns, as certified, it appears that the said candidates received, respectively, the following votes, viz:

Gazin.....	113
Livaudais.....	401
Meyer.....	10, 776
Romain.....	4, 022
Scattering.....	6

Adolph Meyer, having received a large majority of all the votes cast, was returned as elected, and by virtue of such return now holds a seat in this House.

In due time after the election Mr. Gazin, the contestant, served upon Mr. Meyer, the contestee, a notice of contest, which, omitting the addresses and signatures, reads as follows:

You are hereby notified that I intend to contest your election as a Member of Congress from the First Congressional district of the State of Louisiana, held on the 3d day of November, 1896.

The grounds upon which I rely in the contest are:

First. That the votes cast for me at various precincts in the city of New Orleans were not counted and returned by the commissioners of election as cast.

Second. That the commissioners of election, in violation of their oath of office, counted votes in your favor that were cast for me.

In support of the first proposition contained in the notice of contest the contestant produced 31 witnesses, each one of whom testified that he had voted for contestant or attempted so to do.

Witness Faust, who so testified, voted in the Ninth precinct of the Ninth Ward. The returns show 1 vote returned for the contestant from that precinct. There is no evidence that any other than Faust voted for him.

Garcia, from the Fourth precinct of the Seventh Ward; Freund, from the Ninth precinct of the Seventh Ward; Reuben, from the Tenth precinct of the Seventh Ward; Blanchard, from the Seventh precinct of the Seventh Ward; Bonee, from the Eleventh precinct of the Fifth Ward; Langlume, from the Seventh precinct of the Fifth Ward; and Gusman, from the Third precinct of the Third Ward, each testified that he voted for Mr. Gazin.

There is no evidence that any other person voted for him in any of the said precincts, and the returns show 1 vote in his favor from each of the said precincts.

Heard, from the Seventh precinct of the Third Ward, testifies that he voted for Mr. Gazin. There were no other witnesses from that ward, but the returns show 4 votes counted for him.

Retef and Miller, from the Nineteenth precinct of the Ninth Ward, each testified that he voted for contestant. There is no evidence that any other votes were cast for him in said ward, and the returns show that 2 votes were counted.

Three witnesses, Skully, Ferner, and Martinet, testified that they voted for Mr. Gazin, but as they had forgotten the precincts in which they voted it is impossible to ascertain whether or not their votes were counted.

Two witnesses, Potier and Burns, from the nineteenth precinct of the Third Ward, testified that they voted for Mr. Gazin. The returns show only 1 vote counted for him. Fifteen witnesses in different parts of the city testified that they voted for Mr. Gazin, while the returns from the several precincts fail to show any votes counted for him. There is evidence that in the precincts in which some of these persons voted a few votes were thrown out because improperly marked, the voter having stamped too many candidates for the same office, or in some other way failed to indicate his choice of candidates in the manner provided by the act of assembly. It is impossible to say whether any of the ballots so thrown out were those in which the voter had attempted or intended to vote for the contestant.

William Murray, an election officer in the fortieth precinct of the Third Ward, testified that 7 or 8 ballots were thrown out and not counted, 3 or 4 of which had Mr. Gazin's name upon them. His name was properly stamped, but the names of some of the other candidates were improperly stamped, and therefore the commissioners threw out the entire ballot. Their action in this regard was undoubtedly improper, but was apparently the result of an honest mistake.

At some of the other polling places a few ballots are shown to have been properly thrown out because improperly marked, but it does not appear that the name of Mr. Gazin was upon any of them.

The contestant has not shown that at the outside more than 20 votes cast, or attempted to be cast, for him were not counted for him.

The second proposition contained in his notice of contest is utterly unsupported by evidence, it not having been shown that a single vote cast for contestant was by the commissioners of election counted in favor of the contestee.

Your committee therefore respectfully recommend the adoption of the following resolution:

*“Resolved,* That Joseph Gazin was not elected to the Fifty-fifth Congress from the First Congressional district of the State of Louisiana, and is not entitled to a seat therein.”

L. W. ROYSE, *Chairman.*  
J. M. ROBINSON.  
FRANK G. CLARKE.  
GEO. M. DAVISON.  
WALTER L. WEAVER.  
JNO. W. GAINES.  
JAMES G. MAGUIRE.  
JOSEPH M. BELFORD.  
MARLIN E. OLMSTED.

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The above mentioned person in his name of Robert A. Brown  
and his wife Mary Brown, of the County of ...  
and the State of ...  
do hereby certify that the above mentioned person is the  
owner of the ...  
and is not entitled to a ...

Witness my hand and seal  
this ... day of ...  
19...  
at ...  
Mary A. Brown